

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

IVERY T. WILLIAMS §
v. § CIVIL ACTION NO. 6:09cv436
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Ivery Williams, proceeding *pro se*, filed this application for the writ of habeas corpus complaining of the legality of his confinement. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Williams complains of the failure by prison officials to release him to mandatory supervision and states that the Board of Pardons and Paroles is violating the *Ex Post Facto* Clause by applying laws and rules to him which were enacted after his conviction. After review of the pleadings, the Magistrate Judge issued a Report recommending that the petition be dismissed as successive. Williams received a copy of this Report on or before November 10, 2009, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED without prejudice, with refiling conditioned upon receipt by Williams of permission from the Fifth Circuit Court of Appeals to file a successive petition. He may not refile this petition until such permission has been obtained. It is further

ORDERED that the Petitioner Ivery Williams is hereby DENIED a certificate of appealability *sua sponte*. The denial of this certificate refers only to an appeal of this case, and neither the dismissal of this petition nor the denial of the certificate of appealability shall prevent Williams from seeking leave to file a successive petition. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this 7th day of December, 2009.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE